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## **S.B. 819 -- Possessions of deceased tenants**

Planning and Development Committee public hearing -- February 20, 2013

Testimony of Raphael L. Podolsky

<b>Recommended Committee action: JOINT FAVORABLE</b>
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In 2001, the General Assembly adopted legislation to clarify the procedure by which a landlord can reclaim an apartment if the occupant of the apartment dies. The underlying purpose of the bill was to maximize the likely that the occupant's property would get to the his or her heirs. The statute, which was codified as C.G.S. 47a-11d, created a procedure by which the landlord notifies the next of kin, if known, and files the notice and then an inventory with the probate court. If the next of kin do not respond and the probate court does not open an estate, the landlord does not need to bring an eviction but can instead have a marshal transfer the property to the town, which will store and auction the property, as in an eviction. The statute incorporated those procedures by cross-reference to C.G.S. 47a-42, which is part of the eviction statutes. It turns out, however, that because of the precise wording of 47a-42, it cannot be incorporated by cross-reference but must instead be spelled out. Due to this technical drafting glitch, the statute was read by the court clerks as requiring the landlord to bring an eviction even after going through the probate court-related procedure of C.G.S. 47a-11d. Although S.B. 819 may look lengthy (the "new" language in lines 59-103 is not truly new but largely repeats the language of the existing summary process statute), all it really does is correct the drafting error from 2001.

The bill is the product of a stakeholders' working group set up by the Planning and Development Committee after the 2012 legislative session. The group included representatives of tenants, landlords, marshals, court clerks, and the probate court, who agreed upon this solution. To clarify the 2001 language of the statute, S.B. 819 requires the probate court to provide the landlord with a certificate confirming that he has complied with the probate filing requirements of 47a-11d. That certificate will allow the housing court to open a file and issue an execution to the marshal so that the deceased tenant's property can be removed. The process otherwise remains the same as the prior process with three exceptions. First, it requires the landlord to notify, in addition to the next of kin, any person designated by the occupant as an emergency contact and to include in the notice the phone number of the probate court. Second, the notice directs the next of kin to the probate court to open an estate, rather than to the landlord to claim the property, so that the probate court can control the process. Third, if the possessions are ultimately auctioned off, it escheats any surplus to the state.

This bill clears up the ambiguity unintentionally contained in the 2001 act and thus eliminates the problem that was brought to the General Assembly's attention last year. We urge passage of the bill.